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## BOOK REVIEWS

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COLLECTED PAPERS. By Oliver Wendell Holmes, Associate Justice of the Supreme Court of the United States. New York: Harcourt, Brace & Howe. 1920. Pp. vii, 316.

The papers which form this collection have all been printed elsewhere, but their publication in a single volume is amply justified both by their intrinsic value and by their eloquent and often moving expression of the aspiration of a great spirit and the thoughtful scholarship of an intellect almost unrivaled among contemporary judges. The papers were written during the long period from 1885 through 1918 and cover a wide range of subjects. Among them, perhaps the best known to legal scholars are those on "Early English Equity," on "Privilege, Malice and Intent," on "Executors," and on "The Path of the Law." It were superfluous to offer now a critical estimate of the papers upon technical subjects, for they long ago found their commanding position in the market place of legal ideas and have maintained that position ever since. But it is worth while to call the attention of the bar to the fact that these papers, valuable for the information contained, stimulating to thought, and even more valuable as examples of sound legal analysis and the true method of attack upon legal problems, are now to be had conveniently in an attractive volume. Law students and lawyers, and legal scholars as well, will find the reading or rereading of these papers of absorbing interest and of great value in testing the validity of their technique of legal thinking.

Besides the papers upon the law itself, there are included in this collection several addresses at universities and at bar association meetings of singular charm of expression and of a level-eyed realism buoyed up by standards and ideals of conduct and accomplishment which most of us are altogether too likely to lose sight of on the dusty path of the law which we tread.

Perhaps the best known of these addresses is that entitled "Law and the Court," a speech delivered in 1913 at a dinner of the Harvard Law School Association of New York. Simple and, unless it be in the last paragraph, wholly without effort at rhetorical adornment or unusual figures of speech, it seems to the reviewer one of the most eloquent bits in our language. It is shot through with that breadth of philosophic view and that stern and high sense of obligation which have made Justice Holmes one of the great figures of his generation. This and other papers will explain much in Justice Holmes' judicial opinions to any who may think that these opinions require explanation.

It were well if some of our thoughtless but well-meaning reformers, who rush incontinently to the legislature to procure laws to make men good, could ponder the passage (p. 294):

"As law embodies beliefs that have triumphed in the battle of ideas and then have translated themselves into action, while there is still doubt, while opposite convictions still keep a battle front against each other, the time for law has not come; the notion destined to prevail is not yet entitled to the field. It is a misfortune if a judge reads his conscious or unconscious sympathy with one side or the other prematurely into the law, and forgets that what seem to him to be first principles are believed by half his fellow men to be wrong."

And again, let the tremulous read:

"I have no belief in panaceas and almost none in sudden ruin. I believe with Montesquieu that if the chance of battle—I may add, the passage of a law—has ruined a state, there was a general cause at work that made the state ready to perish in a single battle or a law. Hence, I am not much interested one way or the other in the nostrums now so strenuously urged."

Only the deeply ignorant, in reading this book, could fail to realize something of the enormous range of reading, the depth and intensiveness of the thinking, and the chivalric standards of life which have helped to make the writer of these papers what he is. It is a gratifying thought that while his wise counsels are still often decisive with his colleagues upon the bench, and while revealing flashes in his opinions are delighting and informing the bar, recognition is already accorded to the commanding position which Justice Holmes will surely occupy for all time among the greatest of judges who have dealt with the Anglo-American law. We should have to go back to John Marshall to find a figure at once so distinctive, so bold, and so influential. More certainly than any other judge up to his time, and more than any but perhaps two or three lawyers or legal scholars, he has seen that the great legal problem of our day lies in the application of the law and its functioning.

HENRY M. BATES.

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THE LAW AND PRACTICE IN BANKRUPTCY UNDER THE NATIONAL BANKRUPTCY ACT OF 1898. By William Miller Collier. Twelfth edition, by Frank B. Gilbert and Fred E. Rosbrook. Albany: Mathew Bender & Co. 1921. Two volumes: pp. cxxxviii, 836; 837-1729.

Previous editions of this excellent work have been noted in this REVIEW (1 MICH. L. REV. 695; 3 *id.* 499; 12 *id.* 165; 16 *id.* 391). The present edition continues both the merits and defects of the earlier editions. The familiar arrangement, following the order of the statute as enacted, has now become standard for this work, though it has not been followed by other authors. This arrangement, while it has the merit of being simple and self-indexing, prevents a close and discriminating comparison of the different effects, under different sections of the statute, of several phenomena such as fraudulent conveyances, preferences, and the provability of claims. The work contains the new Canadian Bankruptcy Act.

EVANS HOLBROOK.